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10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 MICHAEL GRECCO PRODUCTIONS,
13 INC., d/b/a “Michael Grecco
14 Photography”, a California corporation,

15 Plaintiff,

16 v.

17
18 THE AUTO CHANNEL, LLC, a
19 Kentucky limited liability company; and
20 DOES 1-10,

21 Defendants.
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Case No.:

**PLAINTIFF’S COMPLAINT FOR
COPYRIGHT INFRINGEMENT**

JURY TRIAL DEMANDED

1 Plaintiff, Michael Grecco Productions, Inc. by and through its undersigned
2 attorneys, hereby prays to this honorable Court for relief based on the following:

3 **JURISDICTION AND VENUE**

4 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., §
5 101 *et seq.*

6 2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331 and
7 1338 (a).

8 3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and
9 1400(a) in that this is the judicial district in which a substantial part of the acts and
10 omissions giving rise to the claims occurred.

11 **PARTIES**

12 4. Plaintiff Michael Grecco Productions, Inc., d/b/a “Michael Grecco
13 Photography” (“Grecco”), is a California corporation organized and existing under
14 the laws of the state of California with its principal place of business at 3103 17th
15 Street, Santa Monica, California 90405. Plaintiff’s principal, Michael Grecco, is an
16 award-winning commercial photographer noted for his iconic celebrity portraits,
17 magazine covers, editorial images and advertising spreads.

18 5. Plaintiff is informed and believes and thereon alleges that Defendant The
19 Auto Channel, LLC (“Auto Channel”), is a Kentucky limited liability company with
20 its principal place of business located at 332 W. Broadway, Louisville, KY 40202,
21 who conducts business in and with the instant forum.

22 6. Defendants DOES 1 through 10, inclusive, are other parties who have
23 infringed Plaintiff’s copyright, have contributed to the infringement of Plaintiff’s
24 copyright, or have engaged in one or more of the wrongful practices alleged herein.
25 The true names, whether corporate, individual or otherwise, of Defendants 1 through
26 10, inclusive, are presently unknown to Plaintiff, who therefore sues said Defendants
27 by such fictitious names, and will seek leave to amend this Complaint to show their
28 true names and capacities when same have been ascertained.

1 7. Plaintiff is informed and believes and thereon alleges that at all times
2 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
3 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
4 at all times acting within the scope of such agency, affiliation, alter-ego relationship
5 and/or employment; and actively participated in or subsequently ratified and adopted,
6 or both, each and all of the acts or conduct alleged, with full knowledge of all the
7 facts and circumstances, including, but not limited to, full knowledge of each and
8 every violation of Plaintiff's rights and the damages proximately caused thereby.

9 **CLAIMS RELATED TO SUBJECT PHOTOGRAPH**

10 8. Plaintiff composed and owns an original photograph of Adam Carolla
11 ("Subject Photograph") that was registered with the United States Copyright Office
12 on October 7, 2015 with the Registration Number VA 1-436-512. Plaintiff is the sole
13 owner of the exclusive rights to the Subject Photograph.

14 9. Plaintiff is informed and believes and thereon alleges that following its
15 publication and display of the Subject Photograph, Auto Channel, Doe Defendants,
16 and each of them used the Subject Photograph without Plaintiff's authorization for
17 commercial purposes in various ways, including, but not limited to, the use on
18 websites such as [https://www.theautochannel.com/news/2019/02/10/651670-rob-](https://www.theautochannel.com/news/2019/02/10/651670-rob-eckaus-talks-with-adam-carolla-about-cars-video.html)
19 [eckaus-talks-with-adam-carolla-about-cars-video.html](https://www.theautochannel.com/news/2019/02/10/651670-rob-eckaus-talks-with-adam-carolla-about-cars-video.html).

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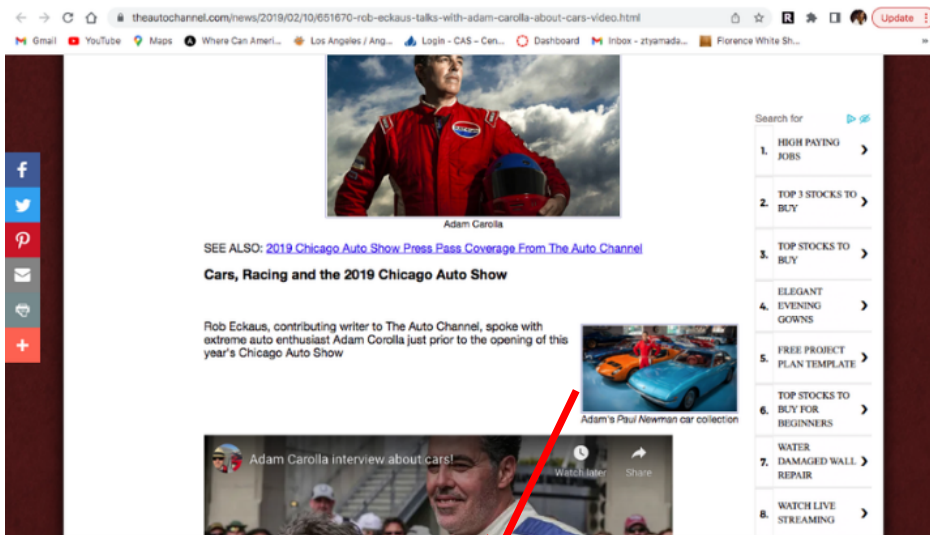
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10. Subject Photograph and a screen capture of Defendant's website with the Subject Photograph embedded are depicted below:

Subject Photograph



Offending Content



CLAIM FOR RELIEF

(For Copyright Infringement – Against all Defendants, and Each)

11. Plaintiff repeats, re-alleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

12. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Photograph including, without limitation, through its publication on Grecco's website; by Grecco's clients; and through the unauthorized reproductions of the Subject Photograph by other third parties on the World Wide Web.

13. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, used and displayed the Subject Photograph on websites including, but not limited to, <https://www.theautochannel.com/>.

14. Plaintiff is informed and believes and thereon alleges that the photograph used by Defendants, shown above, used the same elements, composition, colors, arrangement, subject, lighting, angle, and overall appearance of the Subject Photograph and is identical or at least substantially similar to the Subject Photograph.

15. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by copying the Subject Photograph and publishing and displaying the Subject Photograph to the public, including without limitation, on <https://www.theautochannel.com/>, without Plaintiff's authorization or consent.

16. Due to Defendants', and each of their, acts of infringement, Plaintiff has suffered general and special damages in an amount to be established at trial.

17. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of Plaintiff's rights in the Subject Photograph. As such, Plaintiff is entitled to disgorgement of Defendants'

1 profits directly and indirectly attributable to Defendants' infringement of its rights in
2 the Subject Photograph in an amount to be established at trial.

3 18. Plaintiff is informed and believes and thereon alleges that Defendants,
4 and each of them, have committed acts of copyright infringement, as alleged above,
5 which were willful, intentional and malicious, which further subjects Defendants, and
6 each of them, to liability for statutory damages under Section 504(c)(2) of the
7 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00)
8 per infringement. Within the time permitted by law, Plaintiff will make its election
9 between actual damages and statutory damages.

10 **PRAYER FOR RELIEF**

11 Wherefore, Plaintiff prays for judgment as follows:

12 **Against all Defendants, and Each:**

13 **With Respect to Each Claim for Relief:**

- 14 a. That Defendants, and each of them, as well as their employees, agents,
15 or anyone acting in concert with them, be enjoined from infringing
16 Plaintiff's copyright in the Subject Photograph, including, without
17 limitation, an order requiring Defendants, and each of them, to remove
18 the Subject Photograph from their respective websites, catalogs,
19 marketing and advertisement materials.
- 20 b. That Plaintiff be awarded all profits of Defendants, and each of them,
21 plus all losses of Plaintiff, plus any other monetary advantage gained by
22 the Defendants, and each of them, through their infringement, the exact
23 sum to be proven at the time of trial, and, to the extent available,
24 statutory damages as available under the 17 U.S.C. § 504, 17 U.S.C, and
25 other applicable law.
- 26 c. That a constructive trust be entered over any revenues or other proceeds
27 realized by Defendants, and each of them, through their infringement of
28 Plaintiff's intellectual property rights;

- 1 d. That Plaintiff be awarded its attorneys' fees as available under the
2 Copyright Act U.S.C. § 101 et seq.;
- 3 e. That Plaintiff be awarded its costs and fees under the statutes set forth
4 above;
- 5 f. That Plaintiff be awarded statutory damages and/or penalties under the
6 statutes set forth above;
- 7 g. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 8 h. That Plaintiff be awarded the costs of this action; and
- 9 i. That Plaintiff be awarded such further legal and equitable relief as the
10 Court deems proper.

11 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
12 38 and the 7th Amendment to the United States Constitution.

13
14 Respectfully submitted,

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16 Dated: April 19, 2023

17 By: /s/ Stephen M. Doniger
18 Stephen M. Doniger, Esq.
19 Kelsey M. Schultz, Esq.
20 DONIGER / BURROUGHS
21 Attorneys for Plaintiff
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